

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA)	
)	
vs.)	Case No.
)	3:17-cr-182- MOC
ALEXANDER SAMUEL SMITH,)	
a/k/a "Amir Alexander")	
)	
)	

**GOVERNMENT'S RESPONSE TO DEFENDANT'S
MOTION TO MODIFY CONDITIONS OF RELEASE**

The United States of America, by and through R. Andrew Murray, United States Attorney for the Western District of North Carolina, submits this response to the Defendant's Motion to Modify Conditions of Release Pursuant to 18 U.S.C. § 3142(a)(2) filed on January 25, 2018 (Doc. #27). For the reasons set forth herein, the Government opposes the motion.

BACKGROUND

On June 21, 2017, a Grand Jury returned an indictment charging Alexander Smith with two counts of making a False Statement to an Agency of the United States in violation 18 U.S.C. § 1001(a)(2), (Doc. #3). The indictment alleges that Smith met and communicated with a person he understood to be a supporter of the Islamic State of Iraq and al-Sham ("ISIS")¹ but

¹ On October 15, 2004, the United States Secretary of State designated al-Qaeda in Iraq, then known as Jam'at al Tawhid wa'al-Jihad, as a Foreign Terrorist Organization ("FTO") under Section 219 of the Immigration and Nationality Act and as a Specially Designated Global Terrorist entity under section 1(b) of Executive Order 13224.

On May 15, 2014, the Secretary of State amended the designation of al-Qaeda in Iraq as an FTO under Section 219 of the Immigration and Nationality Act and as a Specially Designated Global Terrorist entity under section 1(b) of Executive Order 13224 to add the alias "Islamic State of Iraq and the Levant" ("ISIL") as its primary name. The Secretary also added the following aliases for ISIL: the Islamic State of Iraq and al-Sham, the Islamic State of Iraq and

who, unbeknownst to Smith, was a confidential human source for the Federal Bureau of Investigation (“The Source”) (Doc. #3, ¶¶ 1 and 2).

The indictment further alleges that Smith discussed with The Source Smith’s desire and plans to travel to Syria in support of ISIS (Doc. #3, ¶¶ 1 and 3). The indictment also alleges that Smith caused his girlfriend to purchase an airline ticket for an individual (“Individual A”) to travel from Tampa Bay, Florida to Buffalo, New York (Doc. #3, ¶ 10), and that Smith believed Individual A’s intention was to ultimately travel to Syria in order to support ISIS (Doc. #3, ¶¶ 5-11).

Count One of the indictment charges that on or about February 16, 2016, Smith falsely stated to FBI agents that he had never discussed his desire or plans to travel to Syria (Doc. #3, ¶¶ 21, 22). Count Two of the indictment charges that on or about February 16, 2016, Smith falsely stated to FBI agents that he did not know that Individual A intended to use the airline ticket to travel and support ISIS (Doc. #3, ¶¶ 23, 24).

On June 29, 2017, the Defendant was arrested and made an initial appearance. On July 5, 2017, the Government and the Defendant jointly recommended to the Court that it set conditions of pretrial release. The Court accepted the joint recommendation and set conditions to include, among others, that the Defendant execute an unsecured bond in the amount \$25,000, that the Defendant be placed on home detention, and that the Defendant submit to electronic monitoring (Doc. #11). The trial in this case is currently set to begin during the Court’s May trial term (Doc. # 25).

Syria (“ISIS”), ad-Dawla al-Islamiyya fi al-'Iraq wa-sh-Sham, Daesh, Dawla al Islamiya, and Al-Furqan Establishment for Media Production. To date, ISIS remains a designated FTO.

DISCUSSION

On January 25, 2018, the Defendant filed a Motion to Modify Conditions of Release (Doc. # 27), asking the Court to discontinue the conditions requiring home detention and electronic monitoring. In support of the motion, the Defendant argues that these conditions have “impacted Mr. Smith’s ability to seek and secure necessary employment opportunities to support the household of 5 that he is responsible for” (Doc. # 27 at 2). The motion should be denied.

The Government has conferred with Sherain Teel, the U.S. Probation Officer assigned to monitor the Defendant’s compliance with the conditions of pretrial release. According to Officer Teel, the Defendant is currently employed full-time as a forklift operator at Forward Air in Charlotte, North Carolina. Officer Teel advised that she has granted permission each time the Defendant requested permission to work overtime. Furthermore, Officer Teel advised that she would generally grant permission for the Defendant to seek and secure additional or substitute employment if the Defendant requested permission to do so.

Since the Defendant is currently employed full-time and has the flexibility to seek additional or substitute employment (albeit with the permission of the U.S. Probation Office), the Government does not believe the current conditions of pretrial release set by the Court should be modified. The Government respectfully submits that the current conditions of pretrial release—including home detention with electronic monitoring—continue to be the least restrictive to ensure the safety of the community and the Defendant’s presence in Court.

CONCLUSION

For the reasons discussed above, the Government respectfully requests that the Court deny the Defendant's Motion to Modify Conditions of Release.

Respectfully submitted this, the 1st day of February, 2018.

R. ANDREW MURRAY
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 1st day of February 2018, the foregoing Government's Response to Defendant's Motion to Modify Conditions of Release was duly served upon counsel for the defendant by electronic notification from the Court to Kevin Tate, Kevin_Tate@fd.org.

/s/ Casey T. Arrowood
Casey T. Arrowood
Assistant United States Attorney